

# HB 445- Montana's Farmer Protection Bill

Representative Betsy Hands (HD 99)

EXHIBIT

DATE 7/12/09

HB 445



## AN OVERVIEW

HB 445 establishes Montana's only state law related to patented plants in agriculture.

It protects Montana farmers in three ways: (1) Protects farmers from liability if they unknowingly acquire or possess patented seeds or plants; (2) Establishes a mandatory crop sampling protocol to be used by patent holders when investigating farmers they believe may have violated plant patents or seed contracts; (3) Provides that the proper venue for legal action is the county where the injury is alleged to have occurred.

### **(1) Protects farmers from liability if they unknowingly acquire or possess contaminated seeds or crops**

This bill shields farmers from liability in cases of inadvertent possession of seeds or plants containing patented traits. HB 445 is an equitable approach to protecting patent rights, property rights, and farmers' rights.

### **(2) Establishes a mandatory crop sampling protocol**

The crop sampling protocol established in HB 445 is to be used by patent holders when investigating farmers they believe may have violated patents or seed contracts. The protocol requires a farmer's written permission for sampling, provides for the option of the presence of a designee of the Secretary of Agriculture to accompany the patent holder during the sampling, and allows for the option of collecting duplicate samples for independent verification if requested by either party.

### **(3) Establishes the proper venue for legal action in cases of alleged patent infringement**

Contracts tied to patented seeds typically ensure that all legal cases be tried in the company's home state regardless of where these farmers live or what the evidence is against them. This puts an undue burden on farmers who often must travel across the country to defend themselves in cases of patent infringement allegations. HB 445 provides that cases of alleged patent infringement be tried in Montana courts.

## PROTECTING MONTANA FARMERS

**HB 445 seeks to level the playing field for farmers of all conventions who are faced with accusations of patent infringement or seed contract violations, including conventional and biotech growers**

- Montana's farmers and ranchers pride themselves on honesty and trust. HB 445 provides a transparent process for collecting samples from farmers' fields in cases of patent infringement investigations. This is just one way to ensure that investigations of this nature are carried out in an open and honest way.
- Hundreds of farmers across the U.S. are investigated each year for infringing seed patents (illegally saving seed). While many of these farmers admit they saved seed, others say they followed the rules but were told of accusations long after the opportunity to collect independent samples had passed.

**We know that plants and plant traits disperse into the environment through pollen drift, seed mixing, and the inadvertent transfer of seeds by humans, animals, and weather events**

- The liability for the uncontrollable movement of patented plants and plant parts is sometimes unfairly passed to farmers and property owners who unknowingly acquire patented material. Farmers and landowners are placed in the uncomfortable and expensive position of defending themselves in cases of patent infringement allegations.
- HB 445 provides some protection for farmers mistakenly targeted by plant patent holders for patent infringement.

### **For more information, contact:**

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